

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LAYNE DREXEL,

Plaintiff,

v.

HARLEYSVILLE INSURANCE CO.

Defendant.

COPY

C.A. No.

05-428 JJF

RKB
AUG 31 2007

Deposition of LAYNE DREXEL, taken pursuant to notice at the law offices of CASARINO, CHRISTMAN & SHALK, 800 North King Street, Suite 200, Wilmington, Delaware, beginning at 10:10 a.m., on Wednesday, August 15, 2007, before Karen McCloskey, Professional Reporter and Notary Public.

APPEARANCES:

ROBERT K. BESTE, ESQ.
SMITH, KATZENSTEIN & FURLOW, LLP
800 Delaware Avenue, 7th Floor
Wilmington, Delaware 19899
for the Plaintiff

STEPHEN P. CASARINO, ESQ.
CASARINO, CHRISTMAN & SHALK
800 North King Street, Suite 200
Wilmington, Delaware 19899
for the Defendant

ALSO PRESENT:

Christopher Logan - Harleysville

1 LAYNE DREXEL,
2 the deponent herein, having first
3 been duly sworn on oath, was
4 examined and testified as follows:

5 BY MR. CASARINO:

6 Q. Sir, could you state your name for the
7 record and home address, please?

8 A. Layne Drexel. 1910 Old Capital Trail,
9 Newark, Delaware 19711.

10 Q. How long have you lived there, sir?

11 A. About 25 years.

12 Q. How old are you, sir?

13 A. Fifty-four.

14 Q. Are you married?

15 A. No.

16 Q. Have you ever been married?

17 A. No.

18 Q. What is your education?

19 A. I have a master's degree plus 45 credits
20 education.

21 Q. Are you employed?

22 A. Yes.

23 Q. Where do you work?

24 A. Christiana High School.

1 Q. What do you do there?

2 A. Teach.

3 Q. What do you teach?

4 A. Math.

5 Q. How long have you taught math at
6 Christiana High School?

7 A. About 25 years. Maybe a couple more than
8 that.

9 Q. In addition to teaching do you have any
10 other jobs?

11 A. I officiate basketball at Christiana and
12 other places, high school basketball.

13 Q. Do you have any investment properties?

14 A. Yes.

15 Q. Can you tell me what they are, please?

16 A. I own a condo at Birch Pointe.

17 Q. Where is Birch Pointe?

18 A. In Pike Creek Valley. I have a three
19 unit apartment building house that was converted
20 into apartments in Wilmington. My original house
21 when I moved to Delaware on Paper Mill Road
22 outside Newark.

23 Q. What about 1740 West 4th Street?

24 A. I sold that.

1 Q. When did you sell that?

2 A. About two or three years ago.

3 Q. What is the address of the condo in Birch
4 Pointe?

5 A. 540 Diana Drive.

6 Q. Is it rented at the present time?

7 A. Yes.

8 Q. And what insurance company insures that
9 condo?

10 A. It's a homeowner's condo. I'm not sure
11 who it is.

12 Q. So the person who rents it has his own
13 insurance?

14 A. Has renter's insurance.

15 Q. In addition to that does the condo have a
16 policy?

17 A. Yes. I pay a condo fee. That is part of
18 the condo fee.

19 Q. When did you purchase that condo?

20 A. Probably about 17 to 20 years ago.

21 Q. You mentioned a three unit apartment in
22 Wilmington?

23 A. Yes.

24 Q. Where that is located?

1 A. 704 North Franklin Street.

2 Q. When did you purchase that unit?

3 A. Also some 17, or 20 years ago.

4 Q. Do you have insurance on it?

5 A. Yes.

6 Q. With what company?

7 A. I don't remember.

8 Q. Is it Harleysville?

9 A. No, I don't think so. I believe it's

10 maybe Nationwide.

11 Q. You mentioned a property on Paper Mill

12 Road?

13 A. Yes.

14 Q. And when did you purchase that property?

15 A. 1980.

16 Q. What is that address?

17 A. 354 Paper Mill Road.

18 Q. Do you have insurance on that property?

19 A. Yes.

20 Q. With what company?

21 A. Nationwide.

22 Q. Have you ever had the unit in Wilmington

23 at 704 North Franklin or the property on Paper

24 Mill Road insured by Harleysville?

1 A. I don't believe so.

2 Q. What address do you use so people can pay
3 their rent, for instance, and get mail relating to
4 those properties?

5 A. My house, 1910 Old Capitol Trail.

6 Q. Let me ask you about the property at 1740
7 West 4th Street. When did you purchase that
8 property?

9 A. That was probably about 20 years ago.

10 Q. What is located there or what was located
11 there?

12 A. A liquor store and two apartments above
13 the liquor store. And there was a single room
14 efficiency behind the liquor store on the first
15 floor.

16 Q. And through the years have they been
17 rented?

18 A. Yes.

19 Q. On the day of the fire in June of 2004,
20 were all the units in that building rented?

21 A. Yes.

22 Q. How long had you been insuring that
23 property through Harleysville Insurance Company?

24 A. I don't remember.

1 Q. Did you have any other insurance
2 companies insuring it besides Harleysville?

3 A. Yes.

4 Q. Do you remember what they were?

5 A. I believe one was Nationwide and I don't
6 remember others.

7 Q. Do you recall when you first started to
8 insure it through Harleysville?

9 A. No.

10 Q. I assume it had been a few years before
11 the fire?

12 A. Yes.

13 Q. Was all of your correspondence with
14 Harleysville sent to you at your home address?

15 A. I got notices from S.T. Good Insurance
16 Company.

17 Q. Did they go to your home address?

18 A. Yes.

19 Q. On Old Capital Trail?

20 A. Yes.

21 Q. Did you ever receive any documentation
22 from Harleysville relating to those properties?

23 A. I don't think so.

24 Q. Copies of policies, things of that

1 nature?

2 A. I believe my correspondence came from
3 S.T. Good.

4 Q. But it would go to you at that property?

5 A. Yes.

6 Q. What about previous notices, would they
7 be sent to you from Harleysville directly or also
8 be sent to you from Good?

9 A. I think they were sent to the mortgage
10 company.

11 Q. Were any previous notices sent to you
12 directly?

13 A. From S.T. Good, yes.

14 Q. And even though they were sent to you
15 from S.T. Good would they have Harleysville on the
16 letters?

17 A. I don't recall.

18 MR. CASARINO: Let's go off the
19 record for a moment.

20 (Whereupon, a discussion was held
21 off the record.)

22 BY MR. CASARINO:

23 Q. Mr. Drexel, I will hand you a copy of a
24 letter that has been supplied to us through the

1 discovery process to the Insurance Commissioner's
2 office of the State of Delaware. Under it appears
3 to have your signature on it. And it is dated
4 August 25, 2004. Can you identify that as a
5 letter that you wrote to the Insurance
6 Commissioner?

7 A. Yes.

8 MR. CASARINO: Let's have this
9 marked.

10 (Whereupon, Exhibit Drexel 1 was
11 marked for identification.)

12 BY MR. CASARINO:

13 Q. I would like to go over that letter with
14 you. In the third paragraph you indicate that you
15 received an insurance policy from S.T. Good; is
16 that correct?

17 A. Yes.

18 Q. And did that insurance policy that you
19 received have a premium invoice attached to it?

20 A. Yes.

21 Q. Do you recall getting that invoice?

22 A. Yes.

23 Q. I am going to show you a document of a
24 premium invoice. Is that a copy of the invoice

1 you received?

2 A. No.

3 Q. Did you receive something different than
4 that?

5 A. Yes.

6 Q. Have you ever received that document that
7 is in front of you?

8 A. No.

9 Q. Your testimony is you never received it?

10 A. Correct.

11 Q. Let me show you a photocopy of another
12 document that says commercial package policy. Did
13 you ever receive a document --

14 MR. BESTE: Are you going to mark
15 these as exhibits for future reference? You have
16 showed him that March 26th invoice and I don't --
17 I would like to have it marked. It's only going
18 to get a little hairy and I would like to have
19 them marked for identification. I would like to
20 know what document we're talking about.

21 BY MR. CASARINO:

22 Q. Is this a copy of the document that you
23 received?

24 A. I don't recall.

1 MR. CASARINO: Why don't we mark
2 that as the next exhibit and mark the premium
3 invoice as the next exhibit.

4 (Whereupon, Exhibit Drexel 2 and 3
5 was marked for identification.)

6 BY MR. CASARINO:

7 Q. Mr. Drexel, the document in front of you
8 is marked as Exhibit 2. And you're saying right
9 now you cannot state one way or the other if you
10 received that document; is that correct?

11 MR. BESTE: Objection. You can
12 answer. I think that mischaracterizes his
13 testimony.

14 BY MR. CASARINO:

15 Q. I thought you said you could not tell us
16 one way or the other whether you received that
17 document; is that correct?

18 A. That's correct. I recognize part of
19 this. I don't know if it's from this particular
20 document. I remember receiving from S.T. Good
21 just a paragraph stating that insurance had been
22 written effective.

23 Q. Do you keep your insurance documents in a
24 separate file?

1 A. Some yes, some no.

2 Q. What type of things did you keep in your
3 file?

4 A. For the property I just had various parts
5 for each unit for tax purposes, expenses. For the
6 general property just correspondences from the
7 mortgage company. Some mortgage statements.

8 Q. Did you have a folder that you kept these
9 documents in?

10 A. I have a folder for the individual
11 properties, yes. For the individual units.

12 Q. For each individual unit you would have
13 had a folder; is that correct?

14 A. Yes.

15 Q. What about a general insurance policy,
16 would you have kept that in a separate folder?

17 A. Some I did and some I did not.

18 Q. Do you still have those folders?

19 A. I don't know.

20 Q. You sold the property two or three years
21 ago?

22 A. Yes.

23 Q. Have you looked for the folders since
24 this litigation began?

1 A. I have looked for any documentation that
2 I have relevant to this. I don't know that it's
3 in a folder. I looked through the documentation I
4 have.

5 Q. If any insurance policy would have come
6 to you related to your policy where would you have
7 kept those policies?

8 MR. BESTE: Objection.

9 BY MR. CASARINO:

10 Q. Where would you?

11 A. In one of several places.

12 Q. So there would have been several places
13 you could look to see if you still have the
14 information that came to you related to --

15 A. Several places I did look.

16 Q. Have you gotten all the documentation
17 that you can find relating to insurance coverages?

18 A. I have gotten all that I could find.

19 Q. Where did you have them? Why do you have
20 them?

21 A. Some of the things that I thought were
22 relevant or related to this individual property I
23 have given to Rob.

24 Q. How about the things you thought were not

1 relevant, where do you have those?

2 A. Just things for the given properties.

3 Q. If I requested production of those
4 folders you would still have them and provide
5 them?

6 A. For the individual units?

7 Q. Yes, individual units.

8 A. Yeah. I could provide the documentation
9 that I have.

10 Q. Let me go back. You said you received
11 your insurance policy from them, I assume S.T.
12 Good, copy being forwarded to you on or about June
13 4 or June 7, 2004?

14 A. Yes.

15 Q. Did that document that you received from
16 S.T. Good state the premium?

17 A. I'm not sure. I believe so.

18 Q. Do you recall if it stated the due date?

19 A. It was with the policy and it was a cover
20 that said it had been written at a premium of I
21 believe -- it quoted a number.

22 Q. Did it tell you when that premium was
23 due?

24 A. It was a bill for a premium. It was the

1 cover sheet to a policy that included at least
2 some of these documents.

3 Q. Okay, sir. Did you receive any
4 documentation from S.T. Good or Harleysville
5 indicating to you the due date of the premium?

6 MR. BESTE: Objection.

7 THE WITNESS: I don't remember. I
8 don't recall. It may have been earlier than
9 that. I remember receiving that date a policy
10 from S.T. Good that had a cover letter that simply
11 stated -- it was just a paragraph. It said that
12 the policy had been written at an annual premium,
13 I believe.

14 BY MR. CASARINO:

15 Q. Did you pay that premium?

16 MR. BESTE: Objection.

17 THE WITNESS: It wasn't a bill. I
18 thought that I had paid the bill. I thought I
19 paid the bill and that was my policy.

20 BY MR. CASARINO:

21 Q. So if you thought you paid a bill you
22 would have had to have gotten a premium notice?

23 MR. BESTE: Objection.

24 THE WITNESS: Oxwen was the

1 mortgage company and I thought they had paid the
2 bill.

3 BY MR. CASARINO:

4 Q. Now you lost me. You said a minute ago
5 that you thought you had paid the premium?

6 A. Yes.

7 Q. I asked if you paid the premium and you
8 must have gotten a premium notice?

9 A. Yes.

10 Q. You said you just paid a mortgage payment
11 and it was included in that?

12 A. Well it was all in my escrow account,
13 taxes and insurance was escrowed. The mortgage
14 company paid my taxes and insurance and whatever
15 else that they paid out of my escrow account.

16 Q. So are you saying you assumed that the
17 mortgage company paid the premium?

18 A. I didn't assume anything, I thought that
19 in retrospect.

20 Q. Did you check with the mortgage company
21 after the litigation had began to see if they had
22 paid the premium?

23 MR. BESTE: Objection.

24 THE WITNESS: I tried several times

1 to call Ocwen and got no other response from them
2 and to be on hold for lengthy periods of time.

3 BY MR. CASARINO:

4 Q. Let me go back. I showed you earlier a
5 document which has been marked as Exhibit 3,
6 premium invoice. You indicated you never received
7 a copy of that?

8 A. That's correct.

9 Q. Let me go to the next sentence in your
10 letter. You said you teach school. And just
11 after school ended June 17th you went for a
12 two-week vacation to the Pocono's; is that
13 correct?

14 A. Yes.

15 Q. Do you recall when you left to go to the
16 Pocono's?

17 A. It was after school ended. I don't
18 recall.

19 Q. You said school ended on June 17th. Did
20 you go on June 17th?

21 A. I don't recall.

22 Q. I have a calender here and that would
23 have been a Thursday?

24 A. This was several years ago. I remember

1 we had just got back from the same place in the
2 Pocono's.

3 Q. Where did you go in the Pocono's, sir?

4 A. To Eagles Mere, Pennsylvania. It's a
5 little town about 200 miles from here.

6 Q. Do you have a place there?

7 A. A friend who teaches a couple kids, she
8 has been friends with the mother of those kids and
9 we have gone up for probably 12 to 15 years.

10 Q. Who owns the place?

11 A. This particular woman's mother and her
12 name is Cowee (phonetic).

13 Q. Can you spell that?

14 A. I can't. Her last name is Klotz. And I
15 believe that's K-L-O-T-Z, but I'm not sure.

16 Q. Is she the person that owns it?

17 A. Yes.

18 Q. And did you drive up to the Pocono's?

19 A. Yes.

20 Q. Did anyone go with you?

21 A. I don't recall. My girlfriend has gone
22 with me in past years. But she often times is
23 back and forth because she is a basketball
24 official and she has to go to camp. And this was

1 basketball time when the fire occurred.

2 Q. Do you think she was there?

3 A. She was there.

4 Q. Do you have an address for this place?

5 A. No, I don't have an address. It's a small
6 town and it's just called the lake house. And if
7 you send information to Eagles Mere Pennsylvania
8 you send it to the lake house.

9 Q. I'm trying to get a feel for when you
10 went up there. Would it have been on a weekend?

11 A. I don't recall. It was three years ago.
12 Do you remember where you went on what day you
13 left to go on vacation?

14 Q. If it were an event in my life is why I'm
15 asking you?

16 A. The event was June 22nd, I remember that.
17 We had been there for at least one day because I
18 had gotten out and gone for a run and got back
19 from my run and there was a message from my
20 girlfriend's mother.

21 Q. What was the message?

22 A. Just that there had been a fire at the
23 liquor store.

24 Q. When you got that message what did you

1 do?

2 A. Called her. Called my girlfriend's
3 mother to try to find out a little bit more about
4 what had happened. She gave me the name of the
5 fire marshall, somebody to call in the fire
6 department. I called them and they told me what
7 it was that I needed to do.

8 Q. What were you told you needed to do?

9 A. To clean up the property and board up.
10 The firemen had just broken out things to fight
11 the fire and clean up. And then secure the
12 property.

13 Q. How did you go about doing that?

14 A. My girlfriend's father has a friend who
15 owns a shed construction company. I was prepared
16 to come home and I was packing to come back home
17 and my girlfriend's father called and said that
18 they had it taken care of. That they would clean
19 up what was necessary and board up the property.

20 Q. Did you at that point contact anyone from
21 S.T. Good or Harleysville?

22 A. Yes.

23 Q. When was that contact made?

24 A. Just minutes after I had spoken to my

1 girlfriend's mother and father and fire company.

2 Q. Who did you talk to?

3 A. The secretary I believe at S.T. Good.

4 Q. Do you recall what you told the
5 secretary?

6 A. That I had had a fire.

7 Q. What instructions, if any, were given to
8 you?

9 A. I'm not sure exactly. I believe that she
10 told me someone would be getting in touch with
11 me. They would investigate or go to see what
12 happened and get in touch with me.

13 Q. Just to make sure I understand. You
14 decided based upon your conversation with your
15 girlfriend's mother or father that you didn't have
16 to come back?

17 A. Correct.

18 Q. Did you speak to anyone after that from
19 S.T. Good or Harleysville Insurance Company while
20 you were still in the Pocono's?

21 A. Spoke to George Powell.

22 Q. Who did you understand George Powell to
23 be?

24 A. He was an adjuster.

1 Q. And that was on the phone?

2 A. Yes.

3 Q. Can you tell me about that conversation?

4 A. I don't remember exactly. I believe it
5 was just he was going to go and see and look at my
6 policy to see what it was that was covered. What
7 we should do next.

8 Q. Was there any follow-up call from him
9 while you were at the Pocono's?

10 A. I don't recall. I don't recall. I
11 remember speaking to him again but I don't
12 remember if it was while we were still in the
13 Pocono's or back home.

14 Q. Was it a conversation by phone or in
15 person?

16 A. I met him once at the property. But all
17 our other conversations were by phone.

18 Q. When did you return from the Pocono's?

19 A. I don't remember the exact date. Where
20 it says two week vacation to the Pocono's it was
21 probably short of two weeks by a day or two.
22 Might have been even ten days instead of two
23 weeks.

24 Q. Did your return from the Pocono's have

1 anything to do with the fire at your place?

2 A. I was anxious to get back. We didn't
3 leave and come home, I believe we left before the
4 time that we had to leave.

5 Q. In your letter you indicate that when you
6 returned from the Pocono's you had a payment
7 notice from Harleysville Insurance Company?

8 A. Yes.

9 Q. For \$283?

10 A. Yes.

11 Q. Let me show you another document and ask
12 you to identify that?

13 MR. BESTE: Has this been produced,
14 Mr. Casarino?

15 MR. CASARINO: I got it as an
16 exhibit from my brief -- I assume it was used in
17 my brief.

18 MR. BESTE: It doesn't have a bates
19 stamp --

20 MR. CASARINO: I know it has been
21 produced.

22 BY MR. CASARINO:

23 Q. Can you identify that, sir, is that the
24 letter that was waiting for you?

1 A. I don't think so.

2 MR. CASARINO: Let's mark that as
3 an exhibit.

4 (Whereupon, Exhibit Drexel 4 was
5 marked for identification.)

6 BY MR. CASARINO:

7 Q. Do you have a copy of the letter you had
8 waiting for you from Harleysville Insurance
9 Company?

10 A. I sent it with the premium notice -- I
11 thought it was that and I sent it in with that
12 check.

13 Q. Are you saying you sent it back to
14 Harleysville with the check?

15 A. Yes.

16 Q. You didn't keep a part of it?

17 A. No.

18 Q. You are under oath and you are saying
19 that is not a copy of the document you received?

20 A. Right.

21 MR. BESTE: Objection.

22 BY MR. CASARINO:

23 Q. You think you received something else
24 saying you owned \$283 --

1 A. Yes.

2 Q. So this would have been sometime when you
3 got back from your vacation I think you said?

4 A. Yes.

5 Q. And when you sent your check to
6 Harleysville did you date that check June 7th?

7 A. Yes.

8 Q. When did you issue it? When did you
9 write it?

10 A. When I got back from the Pocono's.

11 Q. Did you write it on July 1, sir?

12 A. I believe it would have been before that.

13 Q. Why do you believe it would have been
14 before that?

15 A. Because it was as soon as I got back from
16 the Pocono's.

17 Q. I thought you weren't sure when you got
18 back from the Pocono's?

19 A. That's correct.

20 Q. Could you have gotten back from the
21 Pocono's on July 1st?

22 A. I believe it was before then.

23 Q. What are you basing that on?

24 A. Just from my memory. Our rental time

1 traditionally has been ten days.

2 Q. Did you write other checks to other
3 persons or corporations at the same time you wrote
4 the check to Harleysville?

5 A. I don't remember.

6 Q. Have you looked at the document that we
7 have produced from the Wilmington Savings Fund
8 Society?

9 A. The one that I provided my checking
10 account?

11 MR. CASARINO: Why don't we mark
12 this as Exhibit 5.

13 (Whereupon, Exhibit Drexel 5 was
14 marked for identification.)

15 BY MR. CASARINO:

16 Q. Mr. Drexel, I'll show you a document
17 marked Drexel 5. Can you tell me if these are
18 checks that you wrote?

19 A. Yes.

20 Q. Look over them. How were your checks
21 maintained, did you have a checkbook of some sort?

22 A. Yes.

23 Q. Is it a big book, small book, the same
24 size as the check?

1 A. Yes, same size as the checks.

2 Q. We know that the first one is numbered
3 4356. It's dated July 1, 2004?

4 A. Yes.

5 Q. To Discover?

6 A. Yes.

7 Q. Did you write that check on July 1, 2004?

8 A. I don't remember.

9 Q. It is your signature, is it not?

10 A. Yes.

11 Q. Would you have put a different date on
12 there than the date you wrote it?

13 A. Possibly.

14 Q. Why would you have done that, sir?

15 A. Well many bills are due on the 1st of the
16 month. I am not sure if this is when my Discover
17 bill is due.

18 Q. So you're saying you would have written
19 the check on July 1st or dated it July 1, 2004
20 even though you wrote it at a different date?

21 A. I may have. That is not unusual.

22 Q. It's not unusual to do that?

23 A. Not for me, no. If I have half an hour,
24 45 minutes free the end of the month I'll take my

1 bills and just write the checks for the bills.

2 Q. You would write them all on the same
3 date?

4 A. Sometimes, yes.

5 Q. Take a look at the next one which is
6 number 4358?

7 A. Yes.

8 Q. It's also dated July 1, 2004?

9 A. Yes.

10 Q. It looks like to Washington Mutual?

11 A. Yes.

12 Q. What is Washington Mutual?

13 A. Mortgage company.

14 Q. And your mortgage was due on the 1st of
15 the month?

16 A. Yes.

17 Q. Did you write that check on July 2, 2004?

18 A. I may have.

19 Q. Would you have written it after July 1,
20 2004?

21 A. I may have. I don't recall. I have done
22 that.

23 Q. The next check in the list is the one to
24 Harleysville?

1 A. Yes.

2 Q. Check number 4359?

3 A. Yes.

4 Q. That is dated June 7, 2004?

5 A. Yes.

6 Q. What date did you write that check, sir?

7 A. I don't recall.

8 Q. You did not write it on June 7, 2004, did
9 you?

10 A. Correct.

11 Q. It would have been around July 1st of
12 2004?

13 A. Yes.

14 MR. BESTE: Objection.

15 BY MR. CASARINO:

16 Q. At that date or --

17 A. Yes.

18 Q. Why did you put June 7, 2004 date on it?

19 A. The notice that I had gotten was dated I
20 believe the 8th or 10th.

21 Q. What do you mean by that?

22 A. The paper that I sent back to
23 Harleysville with the check for \$283 had a date on
24 it of June 8th or 10th.

1 Q. Did that document that you received --
2 and that was a document from Harleysville you
3 said; correct?

4 MR. BESTE: Objection.

5 THE WITNESS: Yes.

6 BY MR. CASARINO:

7 Q. Did that tell you that the effective date
8 of your policy, the expiration of your policy was
9 June 8, 2004?

10 A. I don't recall that. I think that it was
11 just a late notice.

12 Q. Well it may have been a late notice but
13 didn't it tell the effective dates of your policy
14 and the termination date was June 8, 2004?

15 A. I don't recall.

16 Q. Isn't that why you dated it June 7th to
17 be in front of that date?

18 A. No.

19 Q. Why did you date it June 7th?

20 A. Because the letter stated June 8th to
21 June 10th.

22 Q. The letter stated what on June 8th,
23 that's what I don't understand?

24 A. I think if we receive your payment on

1 June 8th or 10th. Obviously I wasn't here when I
2 had gotten that.

3 Q. So obviously you were going to be late on
4 your payment?

5 A. Yes.

6 Q. But you didn't get that until you had
7 gotten back from the Pocono's you are saying?

8 A. Correct.

9 Q. So you just decided to date it back to
10 June 7, 2004?

11 A. Yes. But I didn't think that in any way
12 affected my coverage from the property.

13 Q. Then why did you do it?

14 A. It stated the date on the letter much the
15 same as the stated date on the mortgage is the 1st
16 of the month. But often times there is no penalty
17 until the 18th or 20th. I may have written the
18 check prior to that or after that.

19 Q. Have you ever with regard to paying a
20 mortgage written a check after the due date and
21 dated the check prior to the due date?

22 A. Yes.

23 Q. You did that for what reason?

24 A. Well because sometimes I wouldn't get to

1 write the checks on the 1st or the 27th or 28th or
2 29th or 30th of the month. So I would write my
3 check on the 2nd or 3rd and just date them the 1st
4 and send them.

5 Q. Just to make the record complete, the
6 next check is number 4360?

7 A. Yes.

8 Q. And that is to Artesian?

9 A. Yes.

10 Q. And that is also dated July 1, 2004?

11 A. Yes.

12 Q. Do you know if you wrote that check on
13 July 1, 2004?

14 A. No, I don't.

15 Q. You say you may have done that before
16 that?

17 A. Yes.

18 Q. Is the Artesian bill due before the 1st?

19 A. It may have been or may not have been.

20 The mortgage payments are traditionally the 1st of
21 the month. This is a water company payment and
22 they -- I don't know what their cycle is whether
23 it is quarterly or the 1st of the month or 15th or
24 19th. I'm not sure.

1 Q. Take a look at the next check. Number
2 4361?

3 A. Yes.

4 Q. Also dated July 1, 2004; is that correct?

5 A. Yes.

6 Q. That is to BFI?

7 A. Trash company.

8 Q. Do you know when that bill was due?

9 A. No.

10 Q. Do you know if you wrote that check on
11 July 1, 2004?

12 A. No.

13 Q. Take a look at the next one. The next
14 check in sequence is 4362. Is that dated July 1,
15 2004?

16 A. Yes.

17 Q. To the City of Newark?

18 A. Yes.

19 Q. What was that for?

20 A. That was probably a water bill for the
21 Paper Mill Road property.

22 Q. Do you know if that water bill was due on
23 July 1, 2004?

24 A. No.

1 Q. Take a look at the next one. Before I
2 get to the next one go back to the City of Newark.
3 Did you write that check on July 1, 2004?

4 A. I don't remember.

5 Q. The next one is Conectiv. Number 4363;
6 is that correct?

7 A. Yes.

8 Q. Also dated July 1, 2004?

9 A. Yes.

10 Q. Did you write that check on July 1, 2004?

11 A. I don't remember.

12 Q. Do you know if the Conectiv bill was due
13 July 1, 2004?

14 A. I don't remember.

15 Q. Let's just for the sake of argument say
16 the bill was due July 1, 2004?

17 A. Yes.

18 Q. Why would you have dated it July 1st if
19 you didn't write the check on July 1st?

20 MR. BESTE: Objection.

21 THE WITNESS: Just because I had
22 written the others effective July 1st.

23 BY MR. CASARINO:

24 Q. Did you have separate account checking

1 for the different properties that you owned?

2 A. I did at some times.

3 Q. Did you in 2004?

4 A. I don't believe so.

5 Q. So everything came out of one account?

6 A. Yes.

7 Q. That was the account with Wilmington
8 Savings Fund Society?

9 A. Yes.

10 Q. Did you have any other checking accounts
11 in 2004 at any other banks?

12 A. Yes. I believe I had PNC and I had
13 another with WSFS.

14 Q. Why did you have these other accounts?

15 A. Just because they came with the package.
16 I'm not sure. I couldn't honestly tell you. I
17 can't tell you what I did or didn't do on that
18 particular date at that time.

19 Q. What did you use your PNC account for?

20 A. Just investment account. It was a money
21 market investment account.

22 Q. Did you write checks on it?

23 A. Some.

24 Q. Why would you write checks out of that

1 account?

2 A. I believe that one was \$100 minimum and
3 you could only do three a month.

4 Q. So why would you do it is what I'm trying
5 to find out?

6 A. For maybe a major expense. A car. I'm
7 trying to remember what else I bought. I very
8 infrequently would write checks on that account.

9 Q. What about the WSFS?

10 A. That is just another one that came with
11 the money market package that Wilmington Savings
12 Fund offered.

13 Q. Would you write checks on that account?

14 A. Infrequently.

15 Q. For what reason?

16 A. Same thing. For major expenses. Other
17 expenses.

18 Q. But we are clear, are we not, that it
19 would have been sometime in the end of June or 1st
20 of July that you would have written the check to
21 Harleysville even though it was dated June 7th?

22 A. Yes.

23 MR. BESTE: Objection.

24 BY MR. CASARINO:

1 Q. In your letter the last sentence says, I
2 later found out that Harleysville said they sent
3 me the notice on or about June 18th. How did you
4 find that out, sir?

5 A. I don't remember. I believe it was when
6 I spoke to Harleysville and they had said they
7 sent me a notice on whatever that date was.

8 Q. On June 18th?

9 A. Yes.

10 Q. So you are just going by memory on that
11 discussion you had with someone at Harleysville?

12 A. Yes.

13 Q. Could that have been a discussion you had
14 with someone at S.T. Good?

15 A. I don't believe I spoke to anybody at
16 S.T. Good after that initial contact after they
17 hooked me up with George Powell.

18 Q. Let me ask you about the next sentence.
19 I didn't really understand why I owed them the
20 money --

21 A. Correct.

22 Q. -- but I realize insurance rates do
23 increase, and figured it was an increase. Why do
24 you say you didn't understand you owed them money?

1 A. Because I thought I had a policy that was
2 a legitimate policy that covered that property. I
3 thought the \$283 was some kind of rider or
4 addendum or something additional. I know that
5 having when you write a check and you get an
6 additional -- you get an additional bill because
7 of some surcharge or something else that was added
8 to the policy.

9 Q. Was there anything in the documentation
10 that you received from Harleysville saying that?

11 A. Saying what?

12 Q. That there was some additional charge, an
13 addendum?

14 A. I don't recall.

15 Q. Didn't the document from Harleysville
16 tell you that it was the premium that you had to
17 pay?

18 MR. BESTE: Objection.

19 THE WITNESS: I don't recall.

20 BY MR. CASARINO:

21 Q. You then said you sent the \$283 check to
22 Harleysville and heard nothing else?

23 A. Correct.

24 MR. CASARINO: Let's get this one

1 marked.

2 (Whereupon, Exhibit Drexel 6 was
3 marked for identification.)

4 BY MR. CASARINO:

5 Q. Mr. Drexel, I'm handing you a document
6 marked Drexel 6. Do you see on the top it has
7 checked off confirmation of termination. It
8 appears to be mailed on July 7, 2004, addressed to
9 -- did you receive a copy of that, sir?

10 A. No, I don't believe so. It looks like
11 it's addressed to S.T. Good?

12 Q. I could be. Did you receive a copy of it
13 is what I'm asking?

14 A. No, I don't think so.

15 Q. Did anyone from S.T. Good talk to you
16 about your policy terminating?

17 A. Later on in the process when I was told
18 by Harleysville that they wouldn't pay the claim.
19 I called the S.T. Good people and I'm sure that's
20 something they talked about. They kind of washed
21 their hands of it and said that it's pretty much
22 out of our hands.

23 Q. Well I'm more interested in the time
24 frame of shortly after July 7, 2004. So the

1 couple weeks after that did you have any
2 conversation with anyone from S.T. Good indicating
3 that your policy had terminated?

4 A. I don't remember. I don't think so.

5 Q. We are deposing S.T. Good. If you don't
6 remember that is fine.

7 A. My conversation with George Powell and I
8 was talking less with George Powell because I was
9 dealing with his associate and they were dealing
10 with George.

11 Q. Let's go down to the middle of that
12 paragraph in your letter. Do you have that letter
13 still in front of you? This would be on page 3
14 where it says Harleysville told me my coverage was
15 cancelled retroactive to June 8th and they had
16 returned my check. Do you see that?

17 A. Yes.

18 Q. You said you had gotten nothing from
19 Harleysville and called my bank, Wilmington
20 Savings Fund Society?

21 A. Yes.

22 Q. Using their electronic phone system I
23 verified that the check had in fact been posted to
24 my account?

1 A. Yes.

2 Q. Explain that to me?

3 A. Pretty much that. Harleysville told me
4 they had sent me my check back. I hadn't gotten
5 my check back from Harleysville so I called the
6 bank to see if the check had been paid from my
7 account. And yes, in fact it had.

8 Q. Did they say when it had been paid?

9 A. Pardon me.

10 Q. Were you told when it had been paid?

11 A. I don't remember.

12 Q. And it goes on to say you contacted
13 someone and were told they had reissued a check to
14 you; is that correct?

15 A. Yes.

16 Q. Did you receive that check, sir?

17 A. No.

18 Q. You never got a check from Harleysville
19 for \$283.80?

20 A. Correct.

21 Q. When did you first become aware that
22 there was an issue as to whether you had insurance
23 coverage?

24 A. Sometime just before the 10th of August.

1 Q. How did you become aware?

2 A. Mark Pedrotti from Booth Associates
3 called me and told me they were almost finished
4 with the property, with the repairs. And
5 requested -- he wanted me to allow the check to go
6 directly to Booth Associates for the repairs and
7 not to me and to which I said fine.

8 I believe he said that I had to call
9 Harleysville to release the check to give my
10 permission to release the check and have the check
11 be written to them instead of to me. I did that.
12 And I don't remember the date but I remember it
13 was just before a weekend. And I just gave them
14 my permission to do that. Then after the weekend I
15 received a call. I don't remember if it was from
16 Booth Associates or from Harleysville but that
17 there was some problem.

18 Q. What were you told the problem was?

19 A. That I wasn't being insured.

20 Q. Are you saying that date was sometime
21 around August the 10th?

22 A. It was after the 10th. I think it was
23 the 12th or the 13th.

24 Q. Have you received anything in writing

1 from Harleysville indicating that your policy had
2 terminated for nonpayment?

3 A. Yes.

4 Q. When did you receive it?

5 A. I believe it was September.

6 Q. What did you receive?

7 A. I think just a statement that said that
8 they weren't paying the claim because my policy
9 was not in effect.

10 Q. In the year 2004 did you ever have any
11 problems receiving mail at your home address?

12 A. I don't think anything unusual.

13 Q. Can you think of any time where you had a
14 problem with mail?

15 A. I know that people have sent me things
16 that I have not gotten. I'm sure that most
17 everybody has been sent things that they haven't
18 gotten.

19 Q. Can you recall specifically anyone
20 telling you in 2004 that they sent you things that
21 you hadn't gotten?

22 A. Specifically no.

23 Q. Can you name anybody I can contact to say
24 that you --

1 A. I say no. I sent letters to 100
2 basketball officials and frequently six or seven
3 don't receive their letter.

4 Q. I was wondering if you had any problems
5 with things coming to your house?

6 A. As I said I don't know.

7 MR. CASARINO: Why don't we take a
8 break.

9 (Whereupon, a short break was
10 taken.)

11 BY MR. CASARINO:

12 Q. Mr. Drexel, let me go back to the phone
13 call you had from George Powell. I know I asked
14 you this but who did you understand Mr. Powell to
15 be?

16 A. An adjuster.

17 Q. How was it that he got in contact with
18 you?

19 A. I believe S.T. Good contacted him.

20 Q. And he told you that he was going to
21 adjust your loss?

22 A. Yes. He was going to tell me how much
23 the loss was and what the insurance would cover.

24 Q. What did he do for you like in sequence?

1 A. He went to the property and I assume that
2 he assessed the damage and however it is that they
3 do that figured out how much it would cost to
4 repair it. And he told me that he would look to
5 see the terms of my policy and what I was entitled
6 to as far as coverage.

7 Q. Did you give him a copy of your policy?

8 A. No. I believe he told me he had a copy
9 of my policy. I know that he saw a copy of my
10 policy because he told me and I don't remember if
11 I was in the Pocono's or was back here but that's
12 one of the things I remember specifically because
13 the tenants had to move out and he said that I was
14 covered for renter loss.

15 And he knew that I was paying for
16 the person to come and clean up and secure the
17 property. And offered to give me I believe it was
18 \$10,000. He said I can issue you a check that
19 will cover the rental loss and the amount of the
20 clean up. And he offered some amount of money. I
21 didn't know how much that was because I hadn't yet
22 gotten a bill from the guy that went to the
23 property and cleaned it up.

24 He estimated that it was going to be

1 vacant for about a month. And then the liquor
2 store who was paying me rent and the tenants who
3 were paying me rent.

4 Q. You went and looked at the property I
5 assume when you got back from the Pocono's?

6 A. Yes.

7 Q. You said there had been some clean up at
8 that time?

9 A. Yes. Ordered by the fire marshall.

10 Q. It was someone you had contacted or
11 someone contacted on your behalf?

12 A. It was my girlfriend's father's friend
13 who owns a shed construction company.

14 Q. What is his name?

15 A. I don't remember. I can find that out.

16 Q. So your girlfriend's father's friend?

17 A. Yes. And this was the guy who my
18 girlfriend's father had spoken to and teamed up
19 with. My girlfriend's father helped also when we
20 were in the Pocono's so we wouldn't have to come
21 home.

22 Q. Did that person in fact clean up your
23 property?

24 A. Yes.

1 Q. What did he do?

2 A. From what I understand the firemen had
3 broken into the property and I guess just pulled
4 things apart and pulled them out on the street
5 either to get to the fire or to get the fire out
6 of them. So I had to clean up the sidewalk, it's
7 on a corner. I had to clean up the sidewalk and
8 then secure it so no one could enter.

9 Q. Did you get a bill from that person?

10 A. I believe it was verbal.

11 Q. Do you remember how much it was?

12 A. No.

13 Q. Ballpark?

14 A. \$500.

15 Q. Where did the fire start in your
16 building, do you know or have you been told?

17 A. I think the original fire marshall said
18 it was in one of the neon signs that the liquor
19 store owner had in the window.

20 Q. So it would have started in the liquor
21 store?

22 A. Yes. I think they later amended that and
23 said that they thought it was a faulty
24 refrigeration unit.

1 Q. But in any event, it was in the liquor
2 store where they say the fire started?

3 A. Yes.

4 Q. What damage was done to the apartment?

5 A. Smoke. Relatively minor as far as cost
6 goes relatively minor. But smoke damage and there
7 might have been some carpet damage.

8 Q. Most of the damage was in the liquor
9 store area?

10 A. Most of the fire damage was in the liquor
11 store property.

12 Q. Let me ask you about what other estimates
13 were obtained by you. Before I do that let me go
14 back to George Powell. Did he in fact give you a
15 document telling you how much it would cost to
16 repair your property?

17 A. No.

18 Q. You indicated he said he would give you a
19 check?

20 A. Yes.

21 Q. Did he do that?

22 A. No. We couldn't determine -- I didn't
23 know the cost of clean up and he said that he
24 estimated that it would be about a month, but he

1 said it could be longer. However, I was going to
2 be out of rent for that month and did I need the
3 money to exist. And I just said it doesn't
4 matter. He said I can either pay you now or we
5 can settle up at the end.

6 Q. What was the name of his company?

7 A. I'm not sure. I don't know that he had a
8 company. I thought he worked for S.T. Good or
9 Harleysville.

10 Q. Why do you think that?

11 A. Just because he was acting as their
12 representative.

13 Q. What happened after that?

14 A. Just somebody walking along the street
15 wouldn't all of a sudden look and say I'm going to
16 go over there and estimate the cost of the repairs
17 for that property. So either the people from S.T.
18 Good I assumed, I don't know. I assumed the
19 people from S.T. Good had contacted him.

20 Q. So he was the estimate?

21 A. Yes.

22 Q. Did he estimate the loss, give you a
23 figure?

24 A. I thought he was the adjuster.

1 Q. Did he give you figures as to what it
2 would cost to repair the property?

3 A. He never did tell me a final figure
4 because in the interim he had recommended several
5 companies to call.

6 Q. Did you call different companies?

7 A. Yes.

8 Q. Which ones did you call?

9 A. The one I went with was Booth
10 Associates. I spoke to a person who was -- I
11 don't remember what he called himself, but he was
12 a person who said to me I will take care of
13 everything for a fee but that fee would come out
14 of the cost of the insurance thing.

15 Q. You didn't hire that person?

16 A. I didn't hire him because I wasn't
17 impressed. I spoke to three other or two other
18 companies besides Gerry Booth and this other
19 character that I met there at the property who I
20 wasn't very happy with.

21 Q. Booth was the person who was eventually
22 hired to correct the damage?

23 A. Yes.

24 Q. He was retained by you?

1 A. I met with Mark Pedrotti who represented
2 Booth Associates. And Mark -- I wish I could
3 remember the title of the person that I met with.
4 I told Mark what this guy told me and because I
5 had never been through it and didn't know any of
6 the ins or outs, this guy had represented himself
7 as saying we'll take care of everything, you don't
8 have to do anything. It won't cost you any money
9 and hire us.

10 And then when I spoke to Mark I
11 talked to him and said this guy said that he will
12 do that. He said don't worry about that, we will
13 take care of everything. I believed that Mark and
14 George Powell knew each other I assume through
15 other fire restoration.

16 Q. Mark was someone who worked for Booth?

17 A. Yes.

18 Q. Do you know what his position was?

19 A. No.

20 Q. And did you sign an agreement with Booth?

21 MR. BESTE: Objection.

22 THE WITNESS: I don't remember.

23 BY MR. CASARINO:

24 Q. I have a document here. Let's just do

1 this so there is no confusion.

2 (Whereupon, Exhibit Drexel 7 was
3 marked for identification.)

4 BY MR. CASARINO:

5 Q. Is that your signature at the bottom?

6 A. Yes.

7 Q. And when did you sign that document?

8 A. I don't remember. It says here 7-16-04.

9 Q. So it's dated 7-16-04?

10 A. Yes.

11 Q. Was that your authorization to have Booth
12 do the work?

13 A. Yes.

14 Q. Did you read it?

15 A. No.

16 Q. Just signed it without reading it?

17 A. I thought you meant just now.

18 Q. I mean when you signed it.

19 A. Yes.

20 Q. The third paragraph says I/we understand
21 that if the insurance co., for whatever reason
22 doesn't pay for the repairs accomplished, then
23 I/we will assume the responsibility for all the
24 payments to G.S. Booth Associates, Inc. Do you

1 remember seeing that?

2 A. Yes.

3 Q. Did you understand if the insurance
4 company didn't pay for Booth you would?

5 A. I don't remember having read that. But I
6 understand I signed it. Yes.

7 Q. Did you authorize Booth to do the work?

8 A. Yes.

9 Q. What did you tell Booth to do?

10 A. Actually Mark told me that he would deal
11 directly with George. He said I will only contact
12 you should the need arise.

13 Q. So who did you authorize to do the work,
14 George Powell or this guy Mark from Booth?

15 A. George Powell was the adjuster and he was
16 the one that was going to determine ultimately how
17 much the insurance company was going to pay to
18 repair.

19 Q. I understand that. But no matter what
20 the insurance company was going to pay didn't you
21 want the work to be done?

22 A. Yes. Had the insurance company not paid
23 it I would have done the majority of the work
24 myself. Much of the cost of repair was clean up

1 and fix up what I would do to an apartment when a
2 tenant moved out. Scrub the walls and maybe
3 replace the carpet and paint. Just over the years
4 -- I'm not very good at it but I can hang drywall
5 and do relatively menial tasks which I certainly
6 would have done myself had the insurance company
7 not been the people paying the bill.

8 Q. When was the work started?

9 A. I don't remember.

10 Q. When was it completed?

11 A. I remember just around August 12th or
12 13th Mark called me and said we're about
13 finished. Can we have your permission to have the
14 check sent to us and that was his request of me to
15 call the insurance company and have the check sent
16 to them.

17 Q. While the work was being performed did
18 you inspect it at all?

19 A. I went to the property.

20 Q. How often would you go there?

21 A. Several times a week.

22 Q. Let me make sure I understand what you
23 just said earlier. If the insurance company and
24 if you had known that the insurance company wasn't

1 going to pay this are you saying you would have
2 done something differently, you would not have
3 hired Booth to do the work?

4 A. Correct. I may have hired them to do the
5 things that are required by the City of Wilmington
6 to have a permit. But by the same token I might
7 have gotten just a licensed electrician because
8 there was electrical damage to do that part of
9 it.

10 There were a couple air conditioners
11 that were ruined. I don't know what it is that
12 Booth Associates charged for the replacement. But
13 I know that you or I could go to Home Depot and
14 buy an air conditioner for a couple hundred
15 dollars and put it in in 15 or 20 minutes. I know
16 they charged me \$2,000 for probably \$150 worth of
17 siding.

18 Q. Let me find out what you would have done
19 differently. You would have purchased the air
20 conditioning units yourself and I think you would
21 have saved money from doing that?

22 A. Yes.

23 Q. You also would have cleaned the smoke
24 damage?

1 A. Yes.

2 Q. Is that something you have done in the
3 past?

4 A. Yes. I have cleaned apartments.

5 Q. You would have done the painting
6 yourself?

7 A. Yes.

8 Q. You wouldn't have hired someone to do
9 that?

10 A. Correct.

11 Q. You would have to hire an electrician?

12 A. Yes, I know I would have. The City of
13 Wilmington requires a license for that.

14 Q. Would you have to hire anyone else?

15 A. If there was any structural damage I
16 would have had to probably hire somebody because
17 that has got to be inspected.

18 Q. How about carpenter work, would you have
19 done that or hired somebody?

20 A. I can do that.

21 Q. You have done carpenter work?

22 A. Yes. That is just nailing up boards and
23 trim and miter saw, drywall that I would have
24 done. There was extensive damage, glass windows

1 and the windows were either broken by the firemen
2 or the actual fire. And I don't remember -- I
3 remember that was one of the stumbling blocks that
4 Booth Associates had because that was one of the
5 things that was slowing down. They were trying to
6 get somebody to replace the glass for less than
7 some astronomical figure that apparently Mark
8 Pedrotti and George Powell couldn't agree on.

9 Q. Would you have been able to replace the
10 glass?

11 A. Some I would have been be able to replace
12 and some I wouldn't have been able to replace.

13 Q. How about the ceilings that were damaged,
14 could you have replaced the ceilings?

15 A. Yes, ceiling tile.

16 Q. You would have done that yourself?

17 A. Yes.

18 Q. Was there any damage to the doors?

19 A. The front door, yes.

20 Q. Any other doors?

21 A. Might have been a bathroom door for a
22 little bathroom in the actual liquor store.

23 Q. Would you have hung the doors yourself?

24 A. Yes.

1 Q. That is something you can do?

2 A. Yes.

3 Q. Now this was about the time school had
4 started, wasn't it?

5 MR. BESTE: Objection.

6 THE WITNESS: No.

7 BY MR. CASARINO:

8 Q. Before?

9 A. Yes.

10 Q. If you had done it yourself could you
11 have done it in the time frame that Booth did it?

12 A. Oh, yeah.

13 Q. You could?

14 A. They were very slow. There were days that
15 they didn't work.

16 Q. Was there any plaster work to be done in
17 the building?

18 A. If plaster was damaged it would have been
19 replaced or it was replaced with drywall.

20 Q. And you can do drywall I think you said?

21 A. Yes. I can do plaster also.

22 Q. You do plaster too?

23 A. Yes. Not very good but I can do it.

24 Q. What about carpet, did you have to have

1 new carpet?

2 A. Yes.

3 Q. Do you install carpet too?

4 A. Yes.

5 Q. And you would have done that?

6 A. Yes.

7 Q. How about the damaged lighting fixtures?

8 A. Anything that was built in probably would
9 have been in the electrical person's fix.

10 Preceding the fire there were shop lights that you
11 hang up and plug in.

12 Q. You would have done that yourself?

13 A. Yeah. As long as the electrical outlets
14 are there it's just putting cup hooks in the
15 ceiling and hanging the fixtures.

16 Q. What about the siding, any damage done to
17 the siding?

18 A. Yes.

19 Q. You would have done that yourself?

20 A. Yes.

21 Q. How about the awning, any damage done to
22 the awning?

23 A. There is an awning outside the liquor
24 store entrance that was old to begin with that

1 wasn't really useful because it had holes in it.
2 But I could have replaced it if that's what you're
3 asking.

4 Q. Yes, sir.

5 A. Yes. They didn't replace that.

6 Q. Have you paid Booth for the work that was
7 done?

8 A. I paid them about \$16,000 because Gerry
9 Booth was very insistent about them being
10 completed with the job. And he agreed that it
11 wasn't my responsibility and I agreed and he
12 agreed that when this whole thing is settled that
13 he will reimburse me that money.

14 Q. What if the court rules against you are
15 you going to pay him the balance?

16 A. At that point in time I don't know what
17 we will do.

18 Q. You didn't discuss that with him?

19 A. No.

20 Q. Your house where you receive your mail,
21 is that a single family dwelling?

22 A. Yes.

23 Q. Do you have a mailbox?

24 A. Yes.

1 Q. Where is the mailbox located?

2 A. End of the driveway.

3 Q. Has anyone else but G.S. Booth and
4 Associates done any work on your property?

5 MR. BESTE: Objection.

6 THE WITNESS: Myself.

7 BY MR. CASARINO:

8 Q. You have done work yourself as well?

9 A. Yes. I did some painting and clean up
10 that they hadn't done. When they found out that
11 they weren't going to get paid they pretty much
12 stopped the work.

13 Q. How much of the work was completed before
14 they stopped?

15 A. 85 or 90 percent.

16 Q. Do you have a bill for Booth for the work
17 that they did?

18 A. No.

19 Q. What did you get from Booth determining
20 the amount of money involved?

21 A. Nothing.

22 Q. Nothing at all?

23 A. No. All the interactions were between
24 Booth Associates and George Powell.

1 Q. What did you get from Powell --

2 A. I don't believe I got anything.

3 Q. Did you get any document indicating how
4 much it had cost to do the work on your property?

5 A. I didn't get anything. I believe that
6 Mark Pedrotti shared with me the paper that they
7 had that they were negotiating with George Powell.

8 Q. What was that document?

9 A. I think it was just a list of things to
10 be repaired or replaced.

11 Q. Has anyone else done any work on your
12 property?

13 MR. BESTE: Objection.

14 MR. CASARINO: What's the
15 objection?

16 MR. BESTE: I have no idea what
17 property you're talking about --

18 MR. CASARINO: The property that
19 was damaged by the fire.

20 MR. BESTE: Then leave the question
21 as it is.

22 THE WITNESS: An independent person
23 did the window glass.

24 BY MR. CASARINO:

1 Q. It wasn't done by Booth?

2 A. No.

3 Q. Did you get a bill for that?

4 A. No.

5 Q. Do you know if it was just a
6 subcontractor with Booth?

7 A. No, I don't.

8 Q. Can you think of anybody else who did
9 work on your property?

10 A. The only other person that I can think of
11 as I mentioned earlier and I know that was a point
12 of contention between George Powell and Booth
13 Associates because Booth Associates said it was
14 going to cost this amount of money and George
15 Powell didn't agree. I thought maybe he had gotten
16 somebody to do it cheaper.

17 Q. I understand that. The work was done by
18 Powell, but I'm trying to find out if anyone else
19 had done the work --

20 A. You mean had contracted to do?

21 Q. Yeah.

22 A. Did I pay anybody else?

23 Q. Did you pay anybody else?

24 A. No.

1 Q. Did you pay the person that cleaned the
2 property for you?

3 A. Yes. I had already said that. I thought
4 you meant for the clean up -- I mean for the fix
5 up of the property, the repairs and replacements.

6 Q. Has anyone from Harleysville told you
7 that they would pay for this loss?

8 A. Yes.

9 Q. Who?

10 A. The girl I spoke to when I authorized
11 delivery of the check to Booth Associates.

12 Q. Do you know who that was?

13 A. I believe her name was Sheri. I'm not
14 100 percent on that.

15 Q. Sheri Klodfelter (phonetic)?

16 A. May have been. I don't know.

17 Q. Was that in writing or orally?

18 A. Over the phone.

19 Q. Over the phone?

20 A. Yes. As per request from Mark Pedrotti
21 who had apparently spoken to her and gotten
22 instructions from her as what to do.

23 Q. Have you ever received anything in
24 writing from Harleysville indicating they would

1 pay for the claim?

2 A. No, not that I recall.

3 MR. CASARINO: Let's mark this.

4 (Whereupon, Exhibit Drexel 8 was
5 marked for identification.)

6 BY MR. CASARINO:

7 Q. I am showing you a letter that has a
8 photocopy of a check on it and that is Exhibit 8.
9 Did you see that letter?

10 A. Yes.

11 Q. Did you write that letter?

12 A. Yes.

13 Q. Why did you write it?

14 A. This was the letter that when George was
15 pretty adamant about receiving payment and I had
16 actually owned part of a condo down in Myrtle
17 Beach. My portion of the condo was this \$16,000
18 figure. When I got that check I signed it over to
19 George.

20 Q. Let's back up. You owned a condo in
21 Myrtle Beach?

22 A. Yes.

23 Q. When did you own that?

24 A. Many years ago. It was through four

1 teacher friends. We just got together and bought a
2 condo. The intent was to be able to get away for
3 a couple weeks during the summer.

4 Q. So in 2004 did you still own the condo?

5 A. That's when we had sold it. We had sold
6 it prior to that and one of the partners was
7 really the active guy. He was the guy that went
8 there. I never went to the condo. I think I
9 owned it for three or four years but never got to
10 use it simply because we never went. And he knew
11 that I wanted out so we got out of it and that was
12 my share.

13 Q. Can I see the letter. And this \$16,400
14 was your share of the sale of the condo?

15 A. Yes.

16 Q. There is also a check that is attached to
17 that dated -- I'm not sure when it's dated. Is it
18 8-6-03?

19 A. Yes.

20 Q. To Harleysville Insurance Company?

21 A. Yes.

22 Q. What was that check for?

23 A. Whatever MIA 812988 is.

24 Q. Could that have been for your insurance

1 policy that was in effect in 2003, 2004?

2 A. Yes.

3 Q. The policy preceding the one involved in
4 this case?

5 A. Yes.

6 Q. This check is made payable to
7 Harleysville Insurance Company?

8 A. Yes.

9 Q. Did you pay it directly to Harleysville
10 Insurance Company?

11 A. I don't remember.

12 Q. Why would you have made that payment if
13 it would have been coming out of your mortgage for
14 instance?

15 A. I had no mortgage at that time.

16 Q. You had no mortgage on your property in
17 2003?

18 A. Apparently not. I don't know.

19 Q. When did you mortgage your property, the
20 one involved in the fire?

21 A. When did I get the mortgage?

22 Q. Yes, sir.

23 A. When I bought the property.

24 Q. When was that?

1 A. About 1985.

2 Q. So you would have had a mortgage on it in
3 2003?

4 A. Not necessarily. I paid it off early. I
5 made extra principal payments.

6 Q. Did you in fact have a mortgage on your
7 property in June of 2004?

8 A. I don't believe so. I'm not sure.

9 Q. Why did you tell me earlier that you
10 thought your insurance policy would have been paid
11 through your mortgage policy?

12 MR. BESTE: Objection.

13 THE WITNESS: I thought that it
14 was.

15 BY MR. CASARINO:

16 Q. If you didn't have a mortgage why would
17 you have thought that, sir?

18 A. I didn't say I didn't have a mortgage. I
19 said I didn't know. You're trying to trick me. I
20 just don't remember.

21 Q. It's clear that you paid Harleysville for
22 your insurance policy that was effective June --

23 A. I wrote that check to Harleysville.

24 Q. You told me earlier you just assumed --

1 A. I believe I sent it to S.T. Good.

2 Q. You told me earlier that you assumed it
3 had been paid because the mortgage company paid
4 it?

5 A. Yes.

6 MR. BESTE: Objection.

7 THE WITNESS: I did because I got
8 the documentation that said that the insurance
9 policy was in effect and it listed the dates at a
10 premium of, and it listed the premium number which
11 I took to be it is in effect.

12 BY MR. CASARINO:

13 Q. But when I asked you how it was paid I
14 thought you said it was paid because you pay your
15 mortgage company?

16 A. I didn't say that. I said that I assumed
17 that it had. I don't know that it had. I assumed
18 that the mortgage company had paid.

19 Q. Can we now say for a fact that you did
20 not have a mortgage on that property in June of
21 2004?

22 A. I can't say, no.

23 Q. But we can find that out?

24 A. Yes.

1 Q. What is the name of your mortgage
2 company?

3 A. Ocwen.

4 Q. Could you spell that?

5 A. O-C-W-E-N.

6 Q. Where are they located?

7 A. I believe Florida.

8 Q. Do you still maintain documents showing
9 payment to your mortgage company?

10 A. It's paid off now and I got the statement
11 from the courthouse saying it was paid off.

12 Q. Would you still have that document?

13 A. I don't remember what they sent me. They
14 sent me the deed.

15 Q. They would have sent you showing
16 satisfaction of the mortgage?

17 A. Yes, satisfaction of mortgage.

18 Q. I would assume you kept that document?

19 A. I sold the property and it may have gone
20 with that to the real estate people that were the
21 agents.

22 Q. Did you pay your mortgage by check?

23 A. Yes.

24 Q. Would that have been from your account at

1 Wilmington Savings Fund Society?

2 A. Yes, in the past several years.

3 Q. Would it have been due on the 1st of the
4 month?

5 A. Yes.

6 Q. Right?

7 A. Yes.

8 Q. So if you were still paying to Ocwen
9 Mortgage Company there should have been a check
10 written to it in July 1, 2004?

11 MR. BESTE: Objection.

12 THE WITNESS: Yes. But as I have
13 stated I don't remember whether I had a mortgage
14 at that time. Obviously looking at them
15 apparently I did not.

16 BY MR. CASARINO:

17 Q. To whom did you sell your property?

18 A. The owner of the liquor store. His last
19 name is Patel.

20 Q. What's his first name?

21 A. I'm not sure.

22 Q. What was the date you sold it to him?

23 A. I'm not sure. About two years ago.

24 Q. Were you paid in cash?

1 A. No.

2 Q. Are you holding the mortgage?

3 A. No.

4 Q. How were you paid?

5 A. Check.

6 Q. You were paid by Patel. Do you know if
7 he has a mortgage on the property?

8 A. I don't know.

9 Q. These conversations that you had by phone
10 between George Powell and yourself, were they on a
11 hard line or cell phone?

12 A. I don't remember. I believe I had both
13 his numbers.

14 Q. Did you have a cell phone at the time?

15 A. Yes.

16 Q. Did you use your cell phone on a regular
17 basis to make phone calls?

18 A. Long distance calls, yes. Probably from
19 the Pocono's.

20 Q. And what is your cell phone number and
21 provider, sir?

22 A. It's Verizon. I'm not sure then. It is
23 now Verizon.

24 Q. Same number as you had before?

1 A. No.

2 Q. What was your number back in 2004?

3 A. I don't remember.

4 Q. You can get it I take it?

5 A. If Verizon has it, yes.

6 Q. What is your cell phone number now?

7 A. 545-3999.

8 Q. When did you get that cell phone number?

9 A. Couple years. I'm not sure. They weren't
10 as popular then as they are now. I didn't use it
11 then as extensively as I use it now.

12 MR. CASARINO: Let's take a three
13 minute break.

14 (Whereupon, a short break was
15 taken.)

16 BY MR. CASARINO:

17 Q. The figure of \$16,000 that you agreed to
18 pay Booth, how did that figure come up; why that
19 figure?

20 A. Just a check that I had received that I
21 signed and gave it to Gerry Booth.

22 Q. So you're saying when you received the
23 proceeds from the sale of the condo that was the
24 amount?

1 A. Yes.

2 Q. So that's why you used that figure?

3 A. Yes.

4 Q. Did you ever receive any estimate from
5 George Powell or Booth or anyone associated with
6 Booth as to what it would cost to repair your
7 property?

8 A. In writing?

9 Q. Yes, sir.

10 A. I don't believe so. I knew what figures
11 they were talking about.

12 Q. So you had an oral estimate of some sort?

13 A. I knew that it was someplace in the
14 vicinity of \$50,000.

15 Q. Who told you that?

16 A. I don't remember if it was George or Mark
17 and it came up when they were discussing. I don't
18 think they agreed.

19 Q. In your complaint you indicate that Tower
20 Services, Tower Insurance and Services, Inc., was
21 the one who notified you that George Powell would
22 be adjusting your claim. Who was Tower Insurance
23 Services?

24 A. I guess they employed George Powell.

1 Q. Then on paragraph 13 you said on multiple
2 occasions Tower Services assured and advised Layne
3 Drexel that Harleysville would assume and pay off
4 all costs associated with the repair and
5 restoration of the insured premises. Including of
6 payment of certain other compensations such as
7 lost rental revenue covered under the term of the
8 commercial policy due to the loss from the fire.

9 When you're saying on mulitple
10 occasions can you tell me how many times anyone
11 from Tower Services made those assurances to you?

12 A. Exactly how many times, no.

13 Q. Would the persons from Tower Services and
14 George Powell, is that who you're talking about?

15 A. Yes. I had forgotten that George Powell
16 was Tower Services.

17 Q. Okay. Paragraph 14 you said that on
18 information believed Tower Services as directed
19 and authorized by Harleysville retained, hired and
20 instructed Booth Insurance Restorations to make
21 necessary repairs to the insured premises. Why
22 did you say that, I thought you said earlier that
23 you are the one that hired Booth?

24 MR. BESTE: Objection. I'm going

1 to stop this. To the extent that you're asking
2 him to reveal attorney/client privilege as to the
3 basis of the allegations in the complaint, I'm
4 instructing him not to answer.

5 You're free to ask him regarding the
6 facts behind any allegation. But I'm instructing
7 him not to answer that question as it currently
8 stands.

9 MR. CASARINO: And the reason is
10 why?

11 MR. BESTE: Attorney/client
12 privilege.

13 MR. CASARINO: There is
14 attorney/client privilege here. All right if
15 that's what you're saying.

16 MR. BESTE: You're free to ask him
17 about the facts surrounding that allegation.

18 MR. CASARINO: I'm not going to ask
19 him anything nor do I intend to about any
20 conversations or anything dealing with
21 attorney/client privilege. This is a statement in
22 the complaint that says Tower Services hired Booth
23 Insurance Restoration.

24 MR. BESTE: You asked him why that

1 particular allegation was made and that calls for
2 attorney/client privilege response.

3 MR. CASARINO: Okay. I'll go along
4 with that.

5 BY MR. CASARINO:

6 Q. In your complaint on paragraph 17 you
7 said on or about August 9th Booth Restorations and
8 Tower Services reached an agreement whereby Booth
9 Restoration would repair the premises for
10 \$49,877.20. Where did you come up with that
11 figure?

12 A. That was a figure that Booth Associates
13 and George Powell had agreed upon.

14 Q. And you remembered that, that's a pretty
15 detailed figure. You don't remember any
16 documentation having that figure on it?

17 A. I remember Mark Pedrotti say that that
18 was the number.

19 Q. And you wrote it down?

20 MR. BESTE: Objection.

21 MR. CASARINO: What's your
22 objection to that?

23 MR. BESTE: First of all, he has
24 not testified that that figure in that paragraph

1 in the complaint came from anywhere. And you're
2 asking him questions about conversations that have
3 nothing to do with that paragraph. We obviously
4 had access to documentation when that complaint
5 was written.

6 MR. CASARINO: I'm not asking him
7 that. I asked him earlier if he received any
8 documentation and I thought he said no. He had an
9 estimate of around 50,000 in writing or orally.
10 And I'm just wondering if he had gotten any
11 written document of any sort indicating that Booth
12 and Tower reached an agreement to repair it for
13 \$49,877.20.

14 MR. BESTE: Then ask him that
15 question.

16 MR. CASARINO: I did.

17 MR. BESTE: That's not what you
18 asked him.

19 MR. CASARINO: I asked him if he
20 had a document and he said no.

21 THE WITNESS: I don't have a piece
22 of paper that says that number on it. Correct. I
23 know that's the number that they arrived at. It
24 was confirmed by Booth Associates.

1 BY MR. CASARINO:

2 Q. How do you know that?

3 A. My conversations with Gerry Booth and
4 Mark Pedrotti.

5 Q. I think you said you had tenants on the
6 property?

7 A. Yes.

8 Q. How long were they out of the property?

9 A. Forever. They moved. They vacated the
10 property.

11 Q. When did they vacate it?

12 A. Immediately after the fire.

13 Q. When the property was repaired did you
14 get new tenants?

15 A. I don't remember. That was not too long
16 before the sale and it might have been vacant at
17 the time of the sale.

18 Q. Do you have documents relating to the
19 sale?

20 A. Yes.

21 MR. CASARINO: Okay, sir. I have
22 nothing else.

23 MR. BESTE: We'll read.

24

* * *

(Deposition concluded at 12:19 p.m.)

* * *

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DEPONENT: LAYNE DREXEL PAGE

Examination by Mr. Casarino 2

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CERTIFICATE OF REPORTER PAGE 83

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1 State of Delaware)
2 New Castle County)

3
4 CERTIFICATE OF REPORTER

5
6 I, Karen McCloskey, Professional
7 Reporter and Notary Public, do hereby certify that
8 there came before me on the 15th day of August,
9 2007, the deponent herein, LAYNE DREXEL, who was
10 duly sworn by me and thereafter examined by
11 counsel for the respective parties; that the
12 questions asked of said deponent and the answers
13 given were taken down by me in Stenotype notes and
14 thereafter transcribed by use of computer-aided
15 transcription and computer printer under my
16 direction.

17
18 I further certify that the foregoing is
19 a true and correct transcript of the testimony
20 given at said examination of said witness.

21
22 I further certify that I am not counsel,
23 attorney, or relative of either party, or
24 otherwise interested in the event of this suit.

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WILLIAM A. JEFFREY, JR. is a resident of the State of New York. He is a graduate of the State University of New York at Albany, where he received a Bachelor's degree in Business Administration in 1968. He is currently employed as a Senior Vice President of the State University of New York at Albany, where he has been employed since 1970. He is also a member of the New York State Bar Association and the New York State Association of Attorneys at Law.

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